

Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of
IMPROVING COMMISSION PROCESSES

PP Docket No. 96-17

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COMMENTS
OF THE

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UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association submits these comments in response to the FCC's request for suggestions for improving the Commission's processes. USTA is the principal trade association for the local exchange carrier industry, with approximately 1,000 members.

I. Introduction

Particularly now that AT&T has been classified as a non-dominant carrier, USTA's members are the primary focus of the regulatory efforts of the FCC's Common Carrier Bureau. Thus, these comments are largely directed to the Commission's regulations and procedures in the common carrier area.

USTA's comments focus on initial, but fundamental, changes that the FCC should make in its framework for regulating the local exchange industry. Such changes are necessary for local exchange carriers (LECs) to remain viable in a competitive telecommunications marketplace, and for customers to reap the maximum benefit from that competition. In each substantive area we address, we propose one or two concrete "first steps" the FCC can implement in the near term.

In taking this approach, there is no intention to slight the process improvements that the Bureau has implemented -- such as reorganizing its complaint division, making information available on the

Internet, meeting with carriers that have proposed new services, permitting electronic filing in some instances and utilizing alternate dispute resolution techniques.¹ But incremental process improvement is simply no longer enough to allow the FCC, or the LEC industry, to succeed in the new world created by recent enactment of federal telecommunications legislation.

Certainly, the Local Exchange industry must transform itself as it goes from regulation to competition. All LECs are doing more with less. The FCC, too, must fundamentally reform its activities. In the near term it must do so because the new telecommunications law contains implementation requirements which will take significant Commission effort. In the longer term, the role and functions of the FCC are vital issues as the telecommunications industry transitions from regulation to competition. All telecommunications entities, particularly the LECs, must be allowed to compete fully and equitably in telecommunications markets, unhampered by regulations that are the remnants of an outmoded regulatory scheme. Non-dominant regulatory treatment of small LECs and of LEC services, areas and customers subject to the greatest level of competition will enable customers to experience the full benefit of competition.

II. Immediate Streamlining Would Improve the Efficiencies of the FCC's Current Tariffing Process.

Parts 61 and 69 of the FCC rules require a long notice period prior to changing a rate. They also subject new switched access services to a waiver process (in addition to the tariffing process) that results in time consuming delays to the subjected LECs and the marketplace. Both problems can and should be immediately addressed. The new law requires that the notice period for price increases and decreases to be shortened. Although the FCC is not compelled to adopt these new notice periods until one year after

¹The Commission and the Bureau have continuously sought such process improvements. And non-partisan groups, such as the Federal Communications Bar Association, have been very constructive in submitting process improvement ideas.

enactment, there is no reason not to do so immediately. As to the second issue, USTA proposed eliminating the new services waiver process in Docket 94-1. The Commission should eliminate the waiver process for new switched services just as it has done for special access services. These two very modest steps would be a good beginning to providing LECs the ability they need to react to competitive market conditions. The Commission can then consider the rest of USTA's pricing flexibility proposals expeditiously in CC Docket 94-1 (which all indications suggest it will).

The Commission could also allow Tier 2 LECs to file simplified, historically based access tariffs under Part 39 of its rules by forbearing from enforcement of the 50,000 access line study area restriction found in those rules. Three LECs above the 50,000 level have recently petitioned the Commission to make filings in this manner. Such tariff filings are simpler to analyze because of their historical cost and demand basis, and are in effect for two years, thus reducing the filing burden on the companies and the Commission alike. The FCC should permit any Tier 2 LEC to use this method, not just those under 50,000 lines.²

III. The FCC is no longer required to set LEC depreciation rates and Should Take An Immediate Step in this Area By Granting USTA's Petition for Reconsideration in Docket 92-296.

The telecommunications legislation permits the FCC to discontinue setting depreciation rates for carriers. Such action would provide LECs with the necessary flexibility to use depreciation that more accurately reflects market conditions and is consistent with the depreciation practices of companies including the IXC's and wireless carriers. In December 1993, USTA filed a petition for reconsideration in Docket 92-296, asking that the Commission adopt the "price cap carrier option" and allow LECs the same flexibility that AT&T enjoyed when it was subject to price caps. In its petition, USTA also

²NECA has also filed a Petition which seeks to allow companies who have submitted their own costs, or filed their own tariffs, to return to average schedule status after a reasonable period. The Commission could act swiftly to approve this petition, and allow more companies to move to the administratively simpler average schedule framework.

recommended that this option be extended to carriers under the Optional Incentive Regulation Plan because depreciation is an endogenous factor for ratemaking purposes in that plan as well. While USTA is encouraged that the FCC plans to begin a proceeding on the depreciation process in February 1997, the issue is more urgent than that. USTA's petition is ripe for immediate action. The Commission should then move swiftly to eliminate depreciation regulation.

Even apart from federal legislation, there are many indications of the increasing pace of competition in the local telecommunications market, forming a substantial basis for Commission action. In fact, at least twenty-one states currently either allow carriers to set their own depreciation rates or have discontinued regulation of depreciation rates. The Commission's decision to offer price cap carriers a no-sharing option and the fact that competition is expanding at an accelerated pace provide a compelling reason for the FCC to take action.³ This is particularly true because of the endogenous nature of depreciation under the price caps regiment. In addition to the increasing competition in the local exchange market, it bears repeating that price-regulated LECs' decisions about depreciation clearly have no effect on the pricing formula under the price cap rules.

IV. The FCC Should Continue Its Momentum in Eliminating Unnecessary Reporting Requirements and Streamlining the Remaining Reports

Over the years, the FCC has required a large number of reports and data filings from common carriers, particularly from the Tier 1 LECs. USTA has attached a list of the reporting requirements that we have identified (the list is not exhaustive) along with the "burden hours" estimated by the Commission for each of these reports.⁴ Of course, the burden hours reflect only the time the

³Granting USTA's petition will address only the going-forward problems created by regulation of depreciation rates. Through the years, the LEC industry has built up a significant reserve deficiency as a result of having depreciation rates set through the regulatory process. Addressing the deficiency issue is beyond the scope of this proceeding.

⁴See attachment.

Commission estimates that members of the industry must devote to compiling these reports. These estimates are often understated and do not include the administrative time and effort the Commission must expend merely to accept these reports for filing, notice many of them for comment (even if no one comments), and simply maintain copies in its filing system. Certainly, the FCC needs to collect limited information about the industries it regulates. But there is an immediate need to eliminate those reports that no longer serve any useful purpose.

The Commission's new docket on revision of filing requirements is a very positive development.⁵ However, the FCC should take an immediate step in this area. The new law directs the Commission to require carriers to file ARMIS reports only once a year, rather than quarterly as now mandated. The FCC should reduce the burden of its reporting requirements simply by issuing an order effectuating this change in the filing frequency of ARMIS reports. There is no reason not to immediately implement these provisions, consistent with the FCC's goal to "beat" Congressionally imposed implementation deadlines where possible.

In addition, earnings reporting for rate of return LECs could be simplified by allowing reporting carriers to do so on an annual basis and by eliminating the access category reporting requirements. This would mean that these LECs could file earnings reports annually on total interstate access earnings, similar to requirements applicable to carriers operating under Section 61.50 of the Commission's rules.

Finally, USTA offers the following suggestions as worthy of consideration in the FCC's efforts to streamline its reports:

- * Form 430 Common Carrier Radio License Qualification Report should be "amendable" rather than completely refiled annually for minor changes, i.e. - a new Board Member.

⁵In CC Docket No. 96-23, a recommendation was made to reduce the filing of the 43-05 report to a semi-annual basis, but omits any reference to 43-01. The FCC implementation schedule calls for a NPRM in May, 1996, and an Order in September, 1996. This could require companies to file the first quarter 1996 report and probably second quarter 1996 report as well.

- * The FCC should consider maintaining a master database where licensees could designate a main point of contact, change of address, phone number, etc. The Commission's records are not always current and mail delays can result anywhere from 30 to 60 days in receiving licenses, violation notices, and other inquiries. As an example, last year the Commission mailed FCC Notices out to every single licensee on record for FCC Regulatory User Fees. GTE's headquarters location in Irving, Texas alone received 152 copies of this same information.
- * Beyond reporting requirements in FCC rules, the Commission should consider establishing an informal clearing house - perhaps under the Managing Director's office, for discretionary or ad hoc information requests. These requests, from divisions or Bureau Chiefs, in the form of letters often result in long term reporting requirements. Examples in the past years have been the State Rate Case Report, Telephone Rates Update, Fiber Deployment Report, and Local Rate Survey Response.

V. The FCC Should Impose Deadlines for Action. At the Same Time, It Should Be More Flexible in How It Considers Issues.

Petitions for rulemaking, applications for review, and petitions for reconsideration are not subject to deadlines for FCC action. A review of the FCC's open dockets is a clear indication that a number of these matters remain unresolved for years. Among other problems, this phenomenon results in records becoming "stale" and the FCC having to re-solicit comment on the same issues.

USTA does not have a comprehensive list of open proceedings affecting common carriers, but examples of pending dockets that have been ripe for resolution for some time include CC Docket 92-105 (Use of N11 Codes and Other Abbreviated Dialing Arrangements); CC Docket 92-77 (Billed Party Preference), RM8640 (Eliminate Detailed Records for Certain Support Assets), CC Docket 92-90 (Implementation of the Telephone Consumer Protection Act of 1991), RM 7967/AAD 92-39 (Amendment of Part 61 To Require Quality of Service Standards In Local Exchange Carrier Tariffs), CC Docket 95-60/RM8448 (Increase the Expense Limit for Certain Assets), CC Docket 80-286 (that phase addressing Other Billing and Collection Costs), CC Docket 91-281 (Rules and Policies Regarding Calling Number Identification Service), CC Docket 93-129 (800 Database Access Tariffs and the 800

Service Management System Tariff), and RM8654 (USTA's Petition for Rulemaking on Reform of the Interstate Access Charge Rules).

A sensible way to approach this backlog might be to publish a list of open proceedings that are more than one year old, and ask interested parties for suggestions on disposition, including their views on which proceedings are the most important to resolve and which could be dismissed with no further FCC action.

Every petition for reconsideration or petition for review should not automatically trigger elaborate review and long orders. This is often an unneeded use of FCC resources. The FCC should dispose of most applications for review and petitions for reconsideration 30 days. The FCBA has recommended this type of process, with extensive consideration only where new, significant issues are raised. Even in these situations, however, decisions should be issued in a few months. In no event should such petitions or applications remain pending for more than 6 months after filing.

VI. The FCC Could Easily Streamline Its Study Area Waiver Process

Petitions for waiver of the Commissions's study area rules are filed on a frequent basis, and can be expected to continue. Petitions normally involve sales of exchanges between price cap carriers and small carriers who also do not wish to operate the purchased exchanges, and all their other operating areas, under the price cap rules. The convoluted process of preparing and filing these waivers, waiting for the FCC to put them on public notice and receive comments, and then prepare approving orders takes many months. Carriers lose administrative benefits by being unable to merge their books and consolidate other non-operational items when the merges are approved by the state commissions. The Commission has established criteria for granting these waivers (principally no adverse effect on USF and state commission approval). The Commission could allow companies to certify that these

conditions have been met, whereupon, absent objections from other parties within 30 days, the petitions would be automatically granted.

VII. The FCC's Accounting and Audit Functions Should Be Updated.

A. Accounting

The FCC's Uniform System of Accounts (USOA) is a complex accounting system that differs from the Securities & Exchange Commission's (SEC's) GAAP accounting. Consequently, LECs must keep more than one set of books in order to comply with FCC and SEC requirements. The FCC has a stated goal to move toward GAAP accounting, and USTA is working actively with the FCC to harmonize USOA and GAAP accounting, and to streamline the onerous provisions of USOA. These efforts should continue.

At the same time these efforts are continuing, there is a current need to re-evaluate whether and to what extent the full scope of the USOA is needed; i.e., whether the level of detail required in subsidiary records, the notification requirement and other requirements are still necessary.

Two immediate steps the FCC should take are to adopt USTA's proposals to (1) eliminate detailed continuing property records for five USOA accounts, and (2) increase the expensing limit from \$500 to \$2,000. Both proposals have been subjected to public comment and are ready for decision.

B. Audits

Pure price cap regulation breaks the link between cost and prices, so that LEC accounting and cost allocation have no effect on rates. The FCC should stop conducting audits of LECs that are not necessary to protect customers and eliminate, or at least streamline, the joint cost and affiliate transaction rules of Part 64. In addition, the Commission should change the materiality level prescribed by RAO Letter 12. The imposition of an overall rate of return on earnings arguably justified cost allocations between services and numerous audits in order to determine which costs should be included

in the rate base. But cost allocation greatly complicates the regulatory process and requires large amounts of both Commission and LEC resources, including those devoted to audits. Pure price regulation eliminates any incentive and/or ability to raise the prices of cost changes because cost changes are of no consequence in determining prices.

VIII. Conclusion

In February 1996, a sweeping overhaul of telecommunications law took effect. All barriers to competition have been preempted. Incumbent local exchange carriers are subject to extensive interconnection and resale obligations which will allow competitors to make local service offerings available immediately. These competitors will include established and, in many cases, large firms with recognized brand names, as well as sophisticated new entrepreneurs. Incumbent LECs remain subject to extensive FCC regulation while competitors face little or no regulation. In recognition of this fact, the law does allow the FCC to forebear from applying any regulation or any provision of the law when certain requirements are met. The new law also encourages the FCC to examine its processes; and to eliminate unnecessary burdens. This proceeding is an excellent place to start. USTA urges the FCC to promptly take the steps we recommend here.

Respectfully submitted,
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ATTACHMENT

<u>OMB Control No/Title</u>	<u>Annual Response</u>	<u>Annual Reporting Hours</u>	<u>Hours Per Request</u>
3060-0056/Registration of Telephone & Date Terminal Equipment	2400	57,600	24
3060-0076/Annual Employment Report of Common Carriers, FCC Form 395	1200	1,200	1
3060-0099/Annual Report Form M	3	3,360	1,120
3060-0106/Reports of Overseas Telecommunications Traffic-Section ****.61	128	2,340	18.28
3060-0147/Extension of Unsecured Credit for Interstate and Foreign Communications Services to Candidates for Federal Office	26	208	8
3060-0149/Application and Supplemental Information Requirements, Part 63	510	6,820	13.37
3060-0165/Records to be Maintained and Reports to Be Filed, Part 41 Franks, Section 41.31	68	408	6
3060-1066/Preservation of Records Communications Common Carriers, Part 42	68	136	2
3060-1068/Reports of Proposed Changes Depreciation Rates, Section 43.43	12	120,000	10,000
3060-0169/Sections 43.51 & 43.53 - Reports and Records of Communications Common Carriers and Certain Affiliates	374	6029	16.12
3060-0233/Part 36, Jurisdictional Separations Procedures	3,090	61,800	20

3060-0253/Connection of Telephone Equipment to the Telephone Network Sections 68.016, 69.110	57,540	3280	.05
3060-0292/Part 69 Access Charges	5,832	33,825	5.79
3060-0298/Tariffs (Other than Tariff Review Plan), part 61	4,797	972,423	202.71
3060-0330/Applications to Hold Interlocking Directorates, Part 62	10	20	2
3060-0355/Rate of Return Report FCC 492, FCC 492A	148	184	8
3060-0370/Part 32, Uniform System of Accounts for Telecommunications Companies	239	3,031,868	12,685.64
3060-0384/Annual Auditor's Certification, Section 64.904	19	9500	500
3060-0391/Monitoring Program on Impact of Federal-State Joint Board Decisions	708	1376	1.94
3060-0392/Sections 1.1401-1.1415, Pole Attachment Complaint Procedures	14	42	3
3060-0395/Automated Reporting & Management Information Systems	161	151,868	943.27
3060-0400/Tariff Review Plan	46	1840	40
3060-0410/Forecast of Investment Usage Report & Actual Usage of Investment Report	300	12,000	40
3060-0411/Formal Complaints Against Common Carriers	760	7600	10
3060-0422/Waivers, Section 68.5	10	30	3
3060-0439/Regulations Concerning Indecent Communications by Telephone	10,200	1632	.16

3060-0448/Special Procedures for Non-Dominant Domestic Common Carriers, Section 63.07	1	100	100
3060-0450/Detariffing the Installation and Maintenance of Inside Wiring Services; Reports on State Regulatory Activities	68	136	2
3060-0463/Telecommunications Services for Individuals with Hearing and Speech Disabilities and the ADA of 1990	72	8110	112.63
3060-0470/Computer III Remand Proceedings	18	27,000	1500
3060-0478/Informational Tariffs	330	16,500	50
3060-0484/Section 63.100	208	1040	5
3060-0496/ARMIS Operating Data Report	50	8000	160
3060-0511/ARMIS Access Report	150	172,500	1,150
3060-0512/ARMIS Quarterly Report	600	132,000	220
3060-0513/ARMIS Joint Cost Report	150	17,250	115
3060-0514/Holding Company Annual Report; Section 43.21(c)	20	20	1
3060-0515/Miscellaneous Common Carriers Record Annual Letter Filing Requirement, Section 43.21(d)	23	33	1.43
3060-0519/Rules & Regulations Implementing the Telephone Consumer Protection Act of 1991	30,000	936,000	31.20
3060-0526/Density Pricing Zone Plans	16	3200	200
3060-0536/Rules & Requirements for Telecommunications Relay Services Interstate Cost Recovery	5,000	46,330	9.26

3060-0540/Tariff Filing Requirements for Non-dominant Common Carriers	5,000	202,500	40.50
3060-0577/Expanded Interconnection with Local Telephone Co. Facilities	16	240	15
3060-0579/Expanded Interconnection with Local Telephone Co. Facilities for Interstate Switched Transport Services	16	1996	124.75
3060-0613/Expanded Interconnection with Local Telephone Co. Facilities, Transport Phase II	16	592	37
3060-0620/Universal Service Fund Data Request	1439	125,193	87
TOTAL	131,856	6,187,129	46.92